

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-3072**September Term, 2022****1:98-cr-00329-RCL-2****1:98-cr-00329-RCL-3****1:98-cr-00329-RCL-4****1:98-cr-00329-RCL-6****Filed On:** December 23, 2022

United States of America,

Appellee

v.

Sean Coates,

Appellant

Consolidated with 21-3073, 21-3078, 22-3016**BEFORE:** Millett, Pillard, and Pan, Circuit Judges

ORDER

Upon consideration of the motions for certificates of appealability, the response thereto, and the replies; the motion for leave to file an amended motion for certificate of appealability, the lodged amended motion, and the opposition to the motion for leave; the motions to adopt the arguments of co-appellants and the opposition thereto; and the motions to appoint counsel, it is

ORDERED that the motion for leave to file an amended motion for certificate of appealability be granted. The Clerk is directed to file appellant Sweeney's lodged amended motion for certificate of appealability. It is

FURTHER ORDERED that the motions to adopt the arguments of co-appellants be granted. It is

FURTHER ORDERED that the motions for certificates of appealability be granted as to the following questions: (1) whether the government's allegedly improper withholding of certain materials submitted to the district court under seal violated

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appellants' due process rights; and (2) whether appellate counsel was ineffective for failing to challenge on direct appeal specific evidentiary rulings made by the district court pertaining to that sealed material. With respect to those issues, appellants have made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(1); Slack v. McDaniel, 529 U.S. 473, 484 (2000). Although appellant Coates did not present these issues in his own motion for certificate of appealability or move to adopt them by reference, Coates raised these arguments in the district court, and these issues apply to him. Accordingly, the court grants a certificate of appealability as to Coates as well. See Jones v. Bradshaw, 856 F. App'x 608, 609 (6th Cir. 2021). The motions for certificates of appealability are denied as to all other issues. It is

FURTHER ORDERED that the motions to appoint counsel be granted and that these cases be referred to the Office of the Federal Public Defender for the appointment of appellate counsel for appellants Carson, Coates, and Martin, pursuant to the court's Criminal Justice Act Plan. The interests of justice warrant appointment of counsel in these cases. See 18 U.S.C. § 3006A(a)(2)(B). The Clerk is directed to enter a briefing schedule once all counsel enter their appearances.

Per Curiam